

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

Crl.Rev.Pet.No. 1879 of 2007

CRA.366/2006 of III ADDL.SESIONS COURT, KOLLAM
CC.359/2002 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM
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REVN. PETITIONER: APPELLANT/ACCUSED

SUDISHNA KUMAR, SUKUMARA MANDIRAM,
MANGAD VILLAGE, KOLLAM.

BY ADV. SRI.VPK.PANICKER

RESPONDENTS: COMPLAINANT

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1. UMA MAHESH, S/O.P.K.NADARAJAN,
POOJA, BEACH ROAD, KOLLAM.
 2. THE STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N. SUKUMARAN

THIS CRIMINAL REVISION PETITION HAVING BEEN
FINALLY HEARD ON 18/06/2007, THE COURT ON
25/06/2007 PASSED THE FOLLOWING:

V.RAMKUMAR, J.

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Crl.R.P. No. 1879 of 2007
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Dated: 25-06-2007

O R D E R

In this Revision filed under Section 397 read with Sec. 401 Cr.P.C. the petitioner who was the accused in C.C. No.359 of on the file of the J.F.C.M -I, Kollam challenges the conviction entered and the sentence passed against him for an offence punishable under Sec. 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the Act').

2. I heard the learned counsel for the Revision Petitioner and the learned Public Prosecutor.

3. The learned counsel appearing for the Revision Petitioner re-iterated the contentions in support of the Revision. The courts below have concurrently held that the cheque in question was drawn by the appellant in favour of the complainant on the drawee bank, that the cheque was validly presented to the bank, that it was dishonoured for reasons which fall under Section 138 of the Act, that the complainant made a demand for payment by a notice in time in accordance with clause (b) of the proviso to Section 138 of the Act and that the Revision Petitioner/accused failed to make the payment within 15 days of receipt of the statutory notice. Both the courts have

considered and rejected the defence set up by the revision petitioner while entering the above finding. The said finding has been recorded on an appreciation of the oral and documentary evidence. I do not find any error, illegality or impropriety in the finding so recorded concurrently by the courts below. The conviction was thus rightly entered against the petitioner.

4. Having regard to the facts and circumstances of the case, I am inclined to reduce the sentence to one of imprisonment till the rising of the court on condition that the revision petitioner complies with the following condition:-

Accordingly, if the revision petitioner pays to the complainant a sum of Rs. 2,95,800/- by way of compensation under Section 357 (3) Cr.P.C. within a period of four months from today he need only undergo imprisonment till the rising of the court . If, however, the revision petitioner fails to comply with the above condition the sentence imposed on him by the court below will revive.

This Revision is disposed of as above.

V. RAMKUMAR, JUDGE.

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